

**Department of Legislative Services**  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

House Bill 389 (Delegate Niemann)  
Environmental Matters

**Recycling - Bars and Restaurants - Beverage Containers**

This bill requires (1) specified distributors, by January 1, 2014, to establish or participate in a program approved by the Maryland Department of the Environment (MDE) for the collection and recycling of “target beverage containers” sold to bars or restaurants; and (2) owners or managers of specified bars or restaurants, by January 1, 2014, to separate, store, and arrange for the collection and recycling of all target beverage containers that are generated for disposal. Bar or restaurant owners or managers may participate in collection and recycling programs established by distributors or make other arrangements for collection and recycling. The bill is limited to counties with a population greater than 150,000 according to the latest projections by the Maryland Department of Planning (MDP). MDE is authorized to grant a waiver from the bill’s requirements and required to adopt implementation and enforcement regulations.

**Fiscal Summary**

**State Effect:** MDE general/special fund expenditures increase by \$29,700 in FY 2012 for additional staffing to implement and enforce the bill. Future year expenditures reflect additional positions and inflation. Revenues are not affected.

| (in dollars) | FY 2012    | FY 2013     | FY 2014     | FY 2015     | FY 2016     |
|--------------|------------|-------------|-------------|-------------|-------------|
| Revenues     | \$0        | \$0         | \$0         | \$0         | \$0         |
| GF/SF Exp.   | 29,700     | 100,400     | 277,000     | 306,200     | 321,600     |
| Net Effect   | (\$29,700) | (\$100,400) | (\$277,000) | (\$306,200) | (\$321,600) |

*Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Local revenues and expenditures increase in counties that implement expanded recycling programs as a result of the bill. Local revenues and expenditures decrease to the extent the bill results in private recycling programs collecting materials that local governments would have otherwise collected.

**Small Business Effect:** Potential meaningful.

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## **Analysis**

**Bill Summary:** A “beverage” is all carbonated and noncarbonated drinks in liquid form and intended for human consumption, including beer, mixed wine, mixed spirit, and alcohol-based drinks. A “beverage” does not include (1) milk and dairy-derived products, except coffee and tea drinks containing these products; and (2) a liquid that is a syrup in a concentrated form, such as extracts, cooking additives, sauces, or condiments that are used for flavoring food or drink.

A “target beverage container” is an airtight container that is constructed of aluminum, glass, or polyethylene terephthalate that contains one gallon or less or 3.8 liters or less at the time of sale to a bar or restaurant in the State.

**Current Law:** MDE promotes and encourages waste diversion across the State. Waste diversion combines both recycling and source-reduction activities. The Maryland Recycling Act requires all counties and Baltimore City to recycle 15% or 20% of their waste generated, depending on population. Additionally, in 2000, Maryland established a voluntary statewide waste diversion goal of 40% by 2005. The waste diversion goal comprises the recycling rate plus source-reduction credits (maximum 5%) that Maryland counties and Baltimore City earn through activities designed to reduce the amount of waste going to the waste stream. Counties have flexibility to determine the best way to reach the required recycling rates.

The State Recycling Trust Fund is used to provide grants to counties and municipalities to support local recycling activities and now comprises primarily computer manufacturer registration fees under the State’s electronic waste recycling law.

**Background:** The Container Recycling Institute notes that nationwide bottle and can recycling campaigns in the 1980s caused a surge in recycling rates, which reached a peak of 54% in 1992. Recycling rates have steadily declined since 1995 and were at 34% by 2006. MDE reports that, in 2009, Maryland had a waste diversion rate of 42.6%, which was composed of a 39.1% recycling rate and a 3.5% source reduction credit.

In 2009, the municipal solid waste stream totaled nearly 6.0 million tons statewide. Data from the U.S. Environmental Protection Agency indicates that the 2009 recycling rate for bottles was 42.9%. There were approximately 249,816 tons of beverage containers generated in Maryland in 2009, of which 42.9% or 107,110 tons were recycled.

According to November 2010 MDP projections, Baltimore City and eight counties have a population greater than 150,000: Anne Arundel, Baltimore, Carroll, Frederick, Harford, Howard, Montgomery, and Prince George's counties. MDP projects the populations of Charles and Washington counties will exceed 150,000 by the year 2015.

**State Expenditures:** General/special fund expenditures increase by \$29,675 in fiscal 2012, which accounts for the bill's October 1, 2011 effective date, by \$100,397 in fiscal 2013, and by \$276,960 in fiscal 2014. These estimates reflect the cost of hiring (1) one part-time environmental program manager in fiscal 2012 to assist in the development of regulations and eventually supervise MDE enforcement personnel; (2) one natural resources planner in fiscal 2013 to review distributors' proposed collection and recycling programs and consider waivers; and (3) three environmental compliance specialists in mid-fiscal 2014 to conduct inspections and enforcement. The estimates include salary costs, fringe benefits, one-time start-up costs, three vehicles, and ongoing operating expenses.

|                                       | <u>Fiscal 2012</u> | <u>Fiscal 2013</u> | <u>Fiscal 2014</u> |
|---------------------------------------|--------------------|--------------------|--------------------|
| New Positions                         | 0.25               | 1                  | 3                  |
| Salary and Fringe Benefits            | \$19,751           | \$83,899           | \$181,279          |
| Start-up Costs and Operating Expenses | <u>9,924</u>       | <u>16,498</u>      | <u>95,681</u>      |
| <b>Total MDE Expenditures</b>         | <b>\$29,675</b>    | <b>\$100,397</b>   | <b>\$276,960</b>   |

Fiscal 2015 and 2016 expenditures reflect 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

While the fiscal 2010 closing fund balance for the Maryland Recycling Trust Fund was \$270,052, this estimate assumes the additional personnel cost to implement the bill will require other sources of special funds and general funds.

**Local Fiscal Effect:** Distributors are required to establish or participate in a beverage container collection and recycling program. It is anticipated that some distributors will rely on existing local government recycling programs in order to fulfill this requirement. To the extent that occurs, local expenditures increase to implement expanded collection efforts and local revenues increase due to the sale of additional recycled materials. Local revenues and expenditures decrease to the extent the bill results in private recycling programs collecting materials that local governments would have otherwise collected.

**Small Business Effect:** Starting in fiscal 2014, this bill has a potential meaningful impact on small restaurants and bars and beverage distributors. Expenditures may increase for small (1) restaurants and bars that must purchase recycling receptacles and

contract for removal of collected recyclable materials; and (2) distributors that must establish or participate in a recycling program. Also, small recycled material haulers, transporters, and processors may benefit from additional business as a result of the bill.

The exact number of small businesses affected by the bill is unknown, but it could be significant. *For illustrative purposes*, the U.S. Census Bureau estimates there were 10,122 food service and drinking establishments in Maryland in 2008, and 7,150 of these establishments had fewer than 50 employees. In addition, the U.S. Census Bureau estimates there were 207 solid waste collection businesses in Maryland in 2008, and 143 of these businesses had fewer than 50 employees. Finally, MDE estimates that a total of 150 beverage distributors operate in Maryland, of which a portion may be small businesses.

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### **Additional Information**

**Prior Introductions:** HB 944 of 2010, a bill with similar provisions, was heard in the House Environmental Matters Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Maryland Department of the Environment, Maryland Department of Planning, Container Recycling Institute, U.S. Environmental Protection Agency, U.S. Census Bureau, Department of Legislative Services

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